



Laura Ziemer
Senior Counsel and Water Policy Advisor

**Statement of Laura Ziemer, Senior Counsel and Water Policy Advisor for Trout Unlimited
House Natural Resources Committee's Subcommittee on Water, Oceans, and Wildlife
Hearing on H.R. 2871 and H.R. 2492:
Western Water Aquifer Recharge and Aging Irrigation Infrastructure.**

June 25, 2020

Chairman Huffman, Ranking Member McClintock, and Subcommittee members:

Thank you for the invitation to testify today on behalf of Trout Unlimited (TU) and its over 300,000 members and supporters nationwide. TU's mission is to conserve, protect and restore North America's trout and salmon fisheries and the watersheds they depend on. In pursuit of this mission, across the West TU has worked with ranchers, farmers, states, Tribes, federal agencies, and other partners to restore streams while also sustaining working lands.

The future of the West is inextricably linked to its water, just as its past can be read through the generations' relationships with the land and its water. The two water bills before the Subcommittee today arise from the West's long history of diverting its river's waters to grow crops in arid lands. Over the past twenty years of TU's work in the West, TU has forged lasting partnerships with ranchers and farmers to build healthier watersheds while upgrading irrigation infrastructure and innovating water management.

TU's testimony today reflects our decades of place-based experience in Idaho and Montana building partnerships to restore rivers while sustaining the people who work the land. This work is neither easy nor fast; but the slow, difficult work of finding new ways to address aging infrastructure and western water law creates durable solutions that advance the health of both rivers and communities. Montana's landmark state legislation to integrate ground and surface water over a decade ago has not only provided a sustainable path forward for new water development that respects Montana's ranching and trout-fishing traditions, but also provides a groundwater management model for the American West, and indeed, for countries as diverse as South Africa and Australia. Restoration partnerships between TU and Montana ranchers, combined with a robust understanding of the surface-water impacts of groundwater pumping, provided the blueprint for the legislation as well as the political will to achieve its passage.

In Idaho, TU's pragmatic work in close collaboration with partners has restored miles of spawning and rearing habitat for salmon and steelhead in the upper Salmon basin and native cutthroat trout in the South Fork of the Snake, while also invigorating multi-stakeholder processes from drought planning in the Henry's Fork of the Snake River to aquifer recharge on the Snake River Plain. The common thread

through these diverse efforts is the ability to create solutions to ensure that the West's great landscapes are more secure in the face of drought for agriculture, communities, and the fish.

1. H.R. 2871, "Aquifer Recharge Flexibility Act" and Idaho's Environmental Working Group

The Idaho congressional delegation has come together to sponsor H.R. 2871 and S. 1570, the Aquifer Recharge Flexibility Act, to remove some of the legal barriers to using the Bureau of Reclamation's vast infrastructure of reservoirs and canals across Idaho's Snake River Plain for managed aquifer recharge. While the Act applies West-wide, excepting California pursuant to Section 2(g), it is the federal agencies' engagement in Idaho's aquifer recharge efforts that has informed the bill. Growing out of the complex water supply and management challenges of Idaho's Snake River, H.R. 2871 builds on the efforts to implement the Eastern Snake Plain Aquifer (ESPA) Comprehensive Aquifer Management Plan (CAMP) and the Idaho State Water Plan. H.R. 2871 authorizes the use of Reclamation canals for conveying non-project water for aquifer recharge (Section 2(b)); provides that the use of water for aquifer recharge is an authorized use for Reclamation's projects (Section 2(c)(2)), and authorizes canal rights-of-way across Bureau of Land Management lands to be used for aquifer recharge purposes in addition to the existing irrigation purpose (Section 2(e)-(f)).

Over 1.4 million acres are irrigated from Snake River surface water or groundwater from the ESPA. Navigating the conflicts between groundwater and surface water users has taken decades. Indeed, the Idaho Department of Water Resources applied for new water rights for aquifer recharge as early as 1998, and stakeholders protested the new water right applications out of the concern of adding new water demands to an already over-appropriated system.

Ultimately, some of water right protests were resolved in part by the formation of an Environmental Resources Technical Working Group with broad, multi-stakeholder participation including such fisheries groups as TU and the Henry's Fork Foundation, and we expect the remainder will be settled in a similar fashion. Trout fishing in the upper Snake River is world-renowned, includes such iconic waters as the Henry's Fork, and contributes more than \$50 million/year to the local economy.¹ The treasured resource of the upper Snake River for so many stakeholders has led to a long history of collaborative processes to discuss, plan, and try to resolve water use conflicts, including the Henry's Fork drought planning process initiated in 2003, and Reclamation's Basin Study for the Henry's Fork in 2015. The level of expertise offered by stakeholders and the commitment to a process of dialogue and learning among diverse points of view is central to the success of these collaborative efforts, including the Environmental Resources Technical Working Group.

The Environmental Technical Working Group reviews and recommends actions to address streamflow issues associated with the diversion of water through Reclamation's canal system to perform managed

¹ *The Economic Values of Recreational Fishing & Boating to Visitors and Communities along the Upper Snake River* (2005), Dr. John Loomis, Dep't of Ag' and Resource Economics, Colorado State University, Ft. Collins, CO, at page 3 of 90.

aquifer recharge. Two issues are dominating current discussions related to recharge diversions: (1) depletion of winter, base flows needed particularly for the survival of juvenile fish, and which also result in reductions in stream water quality; and (2) reductions in spring-time freshet (high flows) needed to move channel bed-load and activate floodplains for maintaining stream and riparian habitat. The Working Group has been developing strategies to address these concerns, including recommending that aquifer recharge diversions be reduced to allow a base-level of bypassed flows to remain instream in the winter, and ensuring that diversions for aquifer recharge leave enough spring, high-flow events to maintain channel and floodplain health. The Environmental Resources Technical Working Group was established as a condition only on the State of Idaho's aquifer recharge water right applications in the "lower valley," meaning downstream of American Falls Reservoir, west of Pocatello, Idaho. TU and the Henry's Fork Foundation support the expansion of the Working Group to the entire upper Snake River basin as the remainder of the State's recharge rights are finalized.

The regular meetings and dialogue resulting from the Environmental Resources Technical Working Group have provided an opportunity to not only sharpen the areas of concern from a fisheries and watershed health perspective in the context of aquifer recharge actions, but also to discuss adaptive management strategies and test-drive new approaches. It is this regular dialogue and process for implementing adaptive management that gives the Working Group its value.

TU and Idaho's Congressional delegation have agreed to language recognizing the value of collaborative, multi-stakeholder groups like Idaho's Environmental Resources Technical Working Group. TU supports incorporation of this language, which we believe encourages Reclamation to continue its productive engagement with the Working Group.

TU also believes that other States, with assistance from the Bureau, would similarly benefit from engaging with a collaborative, multi-stakeholder advisory group to monitor, review, and assess aquifer recharge activities. TU's experience in Idaho is that engaged dialogue and collaborative problem-solving works. In this way, such issues as maintaining adequate spring, high-flow events for important channel maintenance and preserving winter, base flows can be accommodated in ways that are locally appropriate.

2. H.R. 2492, "St. Mary's Reinvestment Act" and threatened bull trout.

Bull trout are native to the cold mountain waters of Montana. They require clean cobble aerated by groundwater upwelling for spawning, and clean, rocky stream bottoms with overhead riparian vegetation for emerging fry and juveniles to mature to adulthood. Some bull trout are highly migratory, swimming over 150 miles to spawn in small tributaries after living in major rivers as large adults, often becoming over three feet long. Bull trout's vulnerability to water quality and habitat degradation resulted in being listed as threatened under the Endangered Species Act (ESA) range-wide in 1999. One of bull trout's distinct population segments resides in the Arctic Ocean tributaries arising from

Montana's Glacier National Park—the Saint Mary and Belly Rivers. They join the Saskatchewan River in Canada to flow north into Hudson Bay.

The plentiful, mountain waters of the Saint Mary River flowing into Canada were eyed by Theodore Roosevelt's mountain-goat hunting guide, John Willis, in the 1880's. Mr. Willis later settled down as a farmer and became the head of the Milk River Irrigation District. After the Reclamation Service (now Bureau of Reclamation) was formed in 1902, John Willis traveled to Washington to pitch the idea of diverting the snow-fed water from his former hunting grounds in the mountains of the Saint Mary River 30 miles east across the rolling plains to augment the flows of the North Fork of the Milk River. The Milk River meanders through 200 miles of Canada before dropping back into the eastern plains of Montana, flowing through north-central Montana for another 165 miles and into the Missouri River system.

The ambitious, 29-mile canal to bring mountain waters to the plains was among the initial five projects authorized for the newly-created Reclamation Service, in 1903. In 1905, \$1 million was allocated for construction to bring Saint Mary River water across to the Milk River. The native bull trout swimming the mountain waters of the Saint Mary River were not then among the concerns of water users, nor were bull trout considered over the next decade of digging the 29-mile canal between the two rivers variously by hand, horse-drawn scrapers, and steam-powered machinery. The canal was finished in 1925 when the second of two, 90-inch, cast-iron pipes was lowered into place to siphon the mountain waters of the Saint Mary into the canal.

Bull trout passage at the canal diversion and entrainment into the ditch have been an identified concern since its listing under the ESA over twenty years ago. An estimated 400-600 juvenile bull trout die in the canal each year. The canal passes through the Blackfoot Tribe's reservation lands, and the successful negotiation of their reserved water right with the State of Montana in 2009—and as federally-ratified in 2016—contained \$3.8 million to study and re-engineer the diversion structure with bull trout in mind. The Bureau of Reclamation, Blackfoot Tribe, and U.S. Fish and Wildlife Service in consultation with other state and National Park fisheries biologists have completed a design for bull trout passage at the diversion structure and a fish screen for the canal intake.

TU has consistently advocated for addressing fisheries concerns when the opportunity arises to repair or replace aging irrigation infrastructure across the West. The opportunity to incorporate what we now understand about impacts to fisheries and river health in re-designing irrigation infrastructure creates a win-win for farms and fish. The Saint Mary's canal needs an immediate win-win. The age and state of disrepair of the entire structure, from diversion and headgate on down was, unfortunately, made plain last month when Drop 5 of the canal completely washed out. The failure of Drop 5 underscores the need for redesigning and replacing the canal's diversion, the failed Drop 5, and Drop 2 that is equally likely to fail.

TU supports the discussions among Montana's congressional delegation on H.R. 2492, and its identical companion bill S. 1305 co-sponsored by Senators Tester and Daines, to authorize funding through Reclamation for the replacement of the diversion structure and Drops 2 and 5 along the canal at a 75%

federal cost share. This would replace the current text of H.R. 2492, which instead increases the federal share to 75% for repairs to the whole of the Milk Project. The failure of Drop 5 last month renders the canal useless for this irrigation season, and it makes sense to make full use of this summer's construction season to make the three priority repairs along the canal for both bull trout and delivery of drinking and irrigation water.



Collapsed Drop 5, Jim Robbins, *Canal's Decay May Leave Montana Parched*, N.Y. Times, June 16, 2020, at A12.

Updating the entirety of the Milk River project's infrastructure is a much bigger undertaking than the immediate concerns of updating the Saint Mary River diversion structure and canal. The basin's largest town, Havre, population 10,000, depends on Milk River flows for drinking water, as does the Fort Belknap Indian Reservation and other small towns of the High Line. Several hundred irrigators across 150,000 acres rely on augmented Milk River flows, the Milk Project's Fresno and Nelson reservoirs, and many more miles of canal for growing hay, wheat, barley, peas, and lentils.

While decisions regarding the federal share and payment structure for the whole of the Milk River project's needed infrastructure repairs remain, there is a clear need and path forward to address the imminent canal repairs and resolve the century-long harm to the native, imperiled bull trout at the same time. TU supports decisive action to fund and implement this trio of projects on the Saint Mary canal this year. Combining the canal drop repairs with the diversion structure upgrade may also lead to delisting the bull trout population in this basin, if population recovery for the Saint Mary River follows improved bull trout passage and eliminating entrainment into the canal.

3. Conclusion.

TU's experience in grappling with water security in the West over the last twenty years involves key federal elements to support successful efforts: support for collaborative, watershed-scale solutions; bringing financing to these solutions based on streamlined federal funding and public-private partnerships; using and advancing the best science, technology, and tools applied to water management; and recognizing that these watershed-scale, locally-driven solutions require the development of a portfolio of projects addressing watershed and flow restoration, reliability of irrigation water supply, and security of municipal water supply.

The two water bills under consideration by this Subcommittee today, as amended with the above-described changes, illustrate TU's engagement on western water issues with our consistent, pragmatic, and collaborative track-record. For H.R. 2871, informing aquifer recharge through stakeholders' fisheries expertise creates best practices that may be taken to the upper Snake River basin, and other basins in the West. For H. R. 2492, implementing the trio of projects to rehabilitate the canal delivering essential drinking and irrigation water, while also removing a century-long injury to the threatened bull trout at the canal's diversion point provides a win-win for farms and fish. Together, the approach of these bills with amendments illustrates the upside of thinking about irrigation infrastructure and water management through a lens focused on multi-benefit projects.

TU appreciates the attention given by this Committee to western water issues, and I thank you again for the opportunity to testify today.